Explanatory Statement

ASIC Corporations (Amendment) Instrument 2026/116

This is the Explanatory Statement for *ASIC Corporations (Amendment) Instrument 2026/116* (***Amending Instrument***).

The Explanatory Statement is approved by the Australian Securities and Investments Commission (***ASIC***).

Summary

1. The Amending Instrument amends the following ASIC instruments to replace references to *ASIC Corporations (Miscellaneous Technical Relief) Instrument 2015/1115* (***Instrument 2015/1115***) with a reference to *ASIC Corporations (Miscellaneous Technical Relief) Instrument 2026/115* (***Instrument 2026/115***):

    a. *ASIC Corporations (School Enrolment Deposits) Instrument 2016/812*;

    b. *ASIC Corporations (Serviced Apartment and Like Schemes) Instrument 2016/869*;

    c. *ASIC Corporations (Property Rental Schemes) Instrument 2016/870*;

    d. *ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968*;

    e. *ASIC Corporations (Factoring Arrangements) Instrument 2017/794*;

    f. *ASIC Corporations (Mortgage Offset Accounts) Instrument 2017/795;*

    g. *ASIC Corporations (Wholesale Equity Scheme Trustees) Instrument 2017/849*;

    h. *ASIC Corporations (Mortgage Investment Schemes) Instrument 2017/857*; and

    i. *ASIC Corporations (Group Purchasing Bodies) Instrument 2018/751*,

    (together, the ***Amended Instruments***).

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Purpose of the instrument

2. Instrument 2026/115 makes technical and machinery changes to provisions in the *Corporations Act 2001* (***Act***) relating to:

    a. those who are exempt from the requirement to hold an Australian financial services (***AFS***) licence, to extend the operation of those provisions to all persons exempted by ASIC from the requirement to hold an AFS licence, irrespective of the power used to grant the exemption; and

    b. the lodgement or publishing of supplementary or replacement documents under Chapter 6, Chapter 6D and Part 7.9 of the Act, to extend the operation of those provisions so that references to the original document in an ASIC instrument includes any supplementary or replacement documents lodged or published after the original.

3. Instrument 2026/115 remakes relief previously provided under Instrument 2015/1115, with only minor changes for style and clarity.

4. Each of the Amended Instruments contains one or more references, in a note or notes, to Instrument 2015/1115. The purpose of the Amending Instrument is to omit each of the references to Instrument 2015/1115 and replace it with a reference to Instrument 2026/115.

Consultation

5. ASIC did not consult on the proposed amendments to the Amended Instruments, given the minor and mechanical nature of the proposed changes.

Operation of the instrument

Part 1 – Preliminary

6. Section 1 of the Instrument specifies the title of the Instrument.

7. Section 2 of the Instrument specifies that the Instrument commences on the day after it is registered on the Federal Register of Legislation.

8. Section 3 of the Instrument specifies that it is made under subsection 926A(2) of the Act.

9. Section 4 of the Amending Instrument provides that each instrument specified in the Schedule (i.e. the Amended Instruments) is amended as set out in the applicable items in the Schedule.

Schedule 1 - Amendments

10. Each of the items of the Schedule to the Amending Instrument amends a reference, in a note in an Amended Instrument, by omitting "*ASIC Corporations (Miscellaneous Technical Relief) Instrument 2015/1115*", and substituting "*ASIC Corporations (Miscellaneous Technical Relief) Instrument 2026/115*".

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Legislative instrument and primary legislation

11. The subject matter implemented by the Amending Instrument is appropriate for a legislative instrument rather than primary legislation because the Amending Instrument amends other legislative instruments made by ASIC.

Duration of the instrument

12. The Amending Instrument will be repealed under section 48A of the *Legislation Act 2003*.

Legislative authority

13. The Amending Instrument is a disallowable instrument made under subsection 926A(2) of the Act. Paragraph 926A(2)(a) of the Act provides that ASIC may exempt a person or class of persons from all or specified provisions to which this section applies.

14. Each of the notes in the Amended Instruments modified by the Amending Instrument relates to an exemption made by ASIC under subsection 926A(2) of the Act.

15. Under subsection 33(3) of the *Acts Interpretation Act 1901* where an Act confers a power to make, grant or issue any instrument (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Statement of Compatibility with Human Rights

16. The Explanatory Statement for a disallowable legislative instrument must contain a Statement of Compatibility with Human Rights under subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011.* A Statement of Compatibility with Human Rights is in the Attachment.

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Attachment

Statement of Compatibility with Human Rights

This Statement of Compatibility with Human Rights is prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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Overview

1. *ASIC Corporations (Miscellaneous Technical Relief) Instrument 2026/115* (***Instrument 2026/115***) repeals, and continues the relief previously available under, *ASIC Corporations (Miscellaneous Technical Relief) Instrument 2015/1115* (***Instrument 2015/1115***).

2. *ASIC Corporations (Amendment) Instrument 2026/116* (***Amending Instrument***) amends various legislative instruments which refer to Instrument 2015/1115 by omitting these references and substituting a reference to Instrument 2026/115.

Assessment of human rights implications

3. This instrument does not engage any of the applicable rights or freedoms.

Conclusion

4. This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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